

B. The Record Supports the Need for Application and Upfront Payment Rules That Will Deter Speculators and Other Entities Seeking To Obstruct Competitive Paging Operations

As PCIA recommended in its opening comments, the Commission should require each applicant to identify each and every frequency in each and every market for which it seeks to bid.³³ Similarly, upfront payments should be calculated on a per market/per frequency basis.³⁴ PCIA recommends that these upfront payments reflect a sliding scale, so as to serve as a meaningful commitment while not deterring participation by smaller companies in the paging auctions. PCIA's proposal, developed through the consensus of its membership, contemplates that the upfront payment would be: \$10,000.00 per frequency in each of the top ten MTAs; \$5,000.00 per frequency in the MTAs ranked 11 through 30; and \$2,500.00 per frequency for the remaining MTAs. These filing and upfront payment requirements reflect a balance between attempting to ensure the sincerity of all auction participants and yet not preventing small companies from participating in the bidding merely as a result of the required upfront payment amounts.

These measures are needed to reflect the fact that existing licensees are making heavy use of the Part 22 and Part 90 frequencies. As a result, the Commission is confronted with a far different situation than it has faced where it has been

³³ PCIA at 30; *see* AirTouch at 44-45; Arch/Westlink at 23; PageNet at 41-43.

³⁴ PCIA at 30-31; *see* A + Network at 10; AirTouch at 45; Arch/Westlink at 22; PageNet at 43.

implementing market area licensing and competitive bidding procedures for "virgin" spectrum (such as broadband and narrowband PCS). The disruption to services already relied upon by the public that could be caused by a geographic licensee seeking to warehouse spectrum or impede the competitive operations of an existing licensee requires that unique requirements be imposed.

C. The Commission Should Ensure That Its Anti-Collusion Rules Are Not Interpreted To Impede Unrelated Business and Operational Discussions Among Existing Participants in the Paging Marketplace

The Commission has tentatively concluded to apply its existing anti-collusion rules to the auction for paging services.³⁵ While the *Notice* indicates that "communications among bidders concerning matters unrelated to the license auction would be permitted,"³⁶ PCIA urges the Commission to ensure that its anti-collusion rules effectively take into account the fact that paging licensees already are active in the marketplace. As a result of the existing nature of the industry, licensees that may be involved in the auctions may also be engaged in merger or other transactional discussions that do not result from the auction process, but may have indirect implications for auction activity. Similarly, existing licensees may find it necessary to undertake discussions to prevent unacceptable interference levels between adjacent

³⁵ *Notice*, ¶ 43.

³⁶ *Notice*, ¶ 89 (footnote omitted).

systems or to implement coordinated market area service arrangements for the benefit of their customers.

The Commission should ensure that its anti-collusion rules are not stated or interpreted in the context of paging auctions to impede the rational business activities of licensees as outline above.³⁷ To do otherwise would impose unnecessary restrictions on this competitive marketplace.

V. THE RECORD SUPPORTS PCIA'S PROPOSALS FOR AUCTION METHODOLOGY AND THE TREATMENT OF DESIGNATED ENTITIES IN THE PAGING AUCTIONS

A. The Auction Methodology Should Promote Rapid Resolution of the Geographic License Grants

PCIA reiterates its recommendations for the conduct of the paging auctions. First, the Commission should conduct one auction for the 929 and 931 MHz frequencies, and a separate auction for all other channels subject to geographic licensing and competitive bidding.³⁸ Second, within each such auction, the Commission should employ simultaneous electronic bidding for all markets and all frequencies in the subject bands.³⁹ Third, the Commission should employ a non-

³⁷ See, e.g., AirTouch at 37-40; Arch/Westlink at 19-20; MobileMedia Communications, Inc. at 25-26; PageNet at 53-54 .

³⁸ PCIA at 32-33; see AirTouch at 32-33; API at 5; Arch/Westlink at 16-17; PageNet at 41.

³⁹ PCIA at 32-33.

simultaneous closing rule, closing the bidding on each frequency in a market once two rounds have passed without the submission of any new bids for the authorization for that particular frequency.⁴⁰

A number of commenters have supported PCIA's recommendations. These commenters agree that PCIA's approach strikes an appropriate balance between the Commission's obligations in conducting auctions and the need quickly to conclude the auctions in order to permit the licensees to proceed with the provision of service to the public.

B. Designated Entities Do Not Require Special Benefits in Connection with Auction Participation

As PCIA observed in its opening comments, the paging industry already consists of a wide variety of entities of all sizes and with a variety of operators.⁴¹ Claims that special treatment of designated entities nonetheless should be required fail to take into account the nature of the existing industry. Moreover, proponents of entrepreneur block allocations, bidding credits, and other similar benefits do not support their claims with the evidence necessary to show that the Commission should grant special rights and opportunities to designated entities.

⁴⁰ PCIA at 32; *see* AirTouch at 35; API at 5; Arch/Westlink at 17-19; PageNet at 43.

⁴¹ PCIA at 33.

Implementation of special designated entities benefits raises a host of practical implementation and competitiveness problems that are ignored by the proponents of such benefits. For example, if the Commission were to set aside entrepreneur blocks, it would be difficult to identify which frequencies in which markets would afford a designated entity a legitimate opportunity to grow a successful business. This effort would be hampered in part by the nature of available information about existing licensees' operations.

Moreover, in a highly competitive marketplace like paging, the establishment of entrepreneur blocks and bidding credits for designated entities holds the potential for granting some applicants unfair competitive advantages over other paging operators.⁴² Rather than benefit competition, such special treatment would impede the comparable competitive footing of marketplace participants. Thus, the record does not support the grant of special relief to designated entities.⁴³

C. There Is No Reason for the Commission to Adopt a Channel Aggregation Limit

The opening comments confirm the Commission's conclusion that the highly competitive nature of the paging industry negates any need for the adoption of a limit

⁴² See, e.g., AirTouch at 48; Arch/Westlink.

⁴³ E.g., Arch/Westlink at 25-27; PageNet at 44.

on the paging channels that may be aggregated by a single entity.⁴⁴ There is no reason to impose an artificial regulatory limitation that could in fact harm the ability of licensees to meet public demand.

VI. CONCLUSION

PCIA urges the Commission to adopt final rules in this proceeding as quickly as possible and to conduct promptly the necessary auctions to permit paging licensees to continue to meet the needs of the public for paging services. In doing so, the Commission's rules should ensure that the transition to geographic licensing and

⁴⁴ E.g., PCIA at 27; AirTouch at 30-31; API at 5; Arch/Westlink at 15-16; Metrocall at 18-19; PageNet at 37-39.

competitive bidding does not interfere with the existing offerings of service to the public.

Respectfully submitted,

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